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District Court

DEC - 5 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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Attorneys for Defendant Babauta


**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS**

UNITED STATES OF AMERICA) CRIMINAL ACTION NO. 04-0009
)
Plaintiff) DECLARATION OF COUNSEL
) SUPPORTING MOTION FOR RELEASE
v.) PENDING APPEAL
)
PEDRO Q. BABAUTA) JAN - 5 2006
) Date: December 29, 2005
Defendant)
) Time: 9:00 a.m.

I, G. Anthony Long, the attorney for Pedro Q. Babauta hereby declare as follows:

- Attached hereto as Exhibit 1 is a true and accurate copy of pages 490 - 492 of the transcript in this case which contain the prosecution's closing argument regarding Count Five of the indictment.

I declare under penalty of perjury pursuant to the laws of the United States of America that the above is true and correct and execute this declaration on Saipan on this 4th day of December, 2005.


G. Anthony Long

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EXHIBIT 1

1 something to cause a crime, you're the person responsible. And in
2 fact with Mrs. Castro and Mr. Sablan, they didn't even know that
3 these contained false documents until February of 2003. Mr. Iglecias
4 did know by now, by this point that they were, these were criminal
5 acts, or he knew that he was involved in a conspiracy. But when you
6 work through someone else, you're still the person who's responsible
7 under the law.
8

9 Next one is the last of the false documents I want to talk
10 to you about, Exhibit 18. That's the April, April 1999 data, and
11 that was submitted in June 1999. That's Count II. Now this one, the
12 defendant actually prepared himself. He didn't have to use anyone.
13 He was the one who was preparing the month, the draft monthly reports
14 then. And you can see that there are negatives for Sites 17 and 19,
15 Ramon Dela Cruz and, again, Betty Anne Diaz. She's come up again
16 now. When you look at Exhibit 19, that's the raw data, which was
17 testified to by Mr. Iglecias and Mrs. Bearden, those are positives
18 for those two sites, 17 and 19. When you put Exhibit 18 and 19
19 together, on the report that went to DEQ, those are negatives. On
20 Exhibit 19, the report, the raw data that was kept in the lab, those
21 are positives. That data doesn't match. And that's a false
22 statement.
23
24
25

 There's one last false statement. That's Count V. That

1 was the false statement submitted on March 6, 2003. That's Exhibit
2 1. That's where the data was omitted. The entire February 27th
3 sampling that we looked at under the conspiracy charge was omitted
4 from that February report. And that was submitted on March 6, 2003.
5 But you'll have the verdict form to look at. And you'll actually
6 have all the exhibits so you can compare for yourself and see in the
7 documents where the data was changed, where it just doesn't match.
8

9 Now there's been an issue of what samples CUC was required
10 to submit or had to submit or what samples they were testing and not
11 submitting. CUC was testing, taking a lot of samples that they
12 should have been submitting and weren't. But all of the false
13 documents and all the conspiracy counts that we've introduced to you,
14 all of these counts relate just to the DEQ samples, and that's it.
15 Just the sampling sites that are on that list that were reported in
16 the monthly report month after month, year after year. And there's
17 no question at all that CUC had to submit that data. Otherwise, why
18 would they be submitting it month after month, year after year. The
19 bottom line is you'll have the data in front of you. You'll see that
20 these are the documents that were submitted by CUC, by the defendant
21 who ran the lab, and you'll see the false statements in there.
22

23 And when you look at the sites, look at who they are, the
24 Borja residence, it's the Town & Country Cafe, the Canton Restaurant,
25

1 it's Betty Anne Diaz twice and Ramon Dela Cruz. It's inarguable
2 whether CUC had to submit these sites or not. But these sites are
3 people's homes and they're restaurants. The CUC can, the defendant
4 can argue whether he had to submit those or not, but that's not going
5 to matter to the people who are getting bacteria infested water, the
6 people whose health are being put at risk. And the bottom line is
7 that the defendant caused these documents to be submitted and they
8 had false statements in them.
9

10 There's been a lot -- there's been some testimony about
11 what the defendant's motive may have been, why would he have done
12 this. You'll hear the Judge instruct you on the law. And motive is
13 not an element that the government needs to prove to you beyond a
14 reasonable doubt. However, you've heard testimony about it and you
15 can judge for yourself why he did this. He said, "let's save water;
16 this looks bad; this looks bad for CUC." Criticisms of the Water
17 Division came to him. And who's CUC, or who's the executive
18 director? That's his wife. He wants to make CUC look good, so he
19 hid data from the people of Saipan.
20
21

22 The data should have shown, should have resulted notices of
23 violation and the public warning being shown -- it's Exhibit 35 --
24 the public warning that should have been in the paper.
25

 When people see something like this, they say to